THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO.8219 OF 1998

DATED 28-09-2005

Between:

Sri Hari Educational Society,

rep. by its Secretary and Correspondent,

Gudivada, Krishna District

.... Petitioner

And

State of Andhra Pradesh,

rep. by its Secretary to Government,

Education Department, Secretariat,

Saifabad, Hyderabad and 11 others

.... Respondents

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ORDER:

Sri Hari Educational Society is the petitioner. There is a dispute with regard to management of the school by name
Sri Hari Hindu Aided Upper Primary School, Gudivada. Up to the year 1996, the school was managed by a correspondent. In view of the rival claims and also complaints against the administration by the teachers etc., an order was passed under Section 24(3) of the A.P. Education Act, 1982 (the 'Act')

entrusting the management of the school to a Special Officer appointed by the competent authority. Thereafter, the 2nd respondent-District Educational Officer has sent proposals to the 3rd-Gudivada Municipality for entrusting the management and basing on such a proposal, the 3rd respondent passed a resolution to take over the management, as proposed. The writ petitioner, aggrieved by the said resolution and also the further steps that would be taken by the Government under Section 60 of the Act, has filed this writ petition with a consequential relief to entrust the management to it.

A detailed counter-affidavit is filed on behalf of the respondents 1, 2 and 4 stating that after the death of the correspondent there were rival claims for correspondent-ship and in that view of the matter, the management was entrusted to a Special Officer appointed under Section 24(3) of the Act. It is further stated that initially the school was established in the year 1936. After the Education Act has come into force, no society or managing committee was formed by the last correspondent to manage the affairs of the school. It is further stated that later there were claims by two sets of persons by registering separate societies for entrustment of management. Insofar as the proposal for entrustment of management to the 3rd respondent- municipality is concerned, it is categorically stated in the counter-affidavit that no such decision was taken by the Government for handing over the management.

It is submitted by Sri D.V.Sitharam Murthy, learned counsel appearing for the petitioner that though there was a representation from the petitioner for entrustment of management of the school, but at no point of time, the petitioner was apprised of the rival claims claiming management. Further, it is submitted that the 3rd respondent-municipality has already passed the resolution and at any moment it may take over the management under Section 60 of the Act.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that after the death of the last correspondent, no body was formed, as contemplated under the Act, and subsequently there were rival claims by registering two different societies. In that view of the matter, there is a dispute with regard to claiming of the management and, as such, the school is being run in the hands of a Special Officer appointed by the Government under Section 24(3) of the Act. It is stated that the competent

authority has not passed any orders to take over the management under Section 60 of the Act. Therefore, the very relief sought for is premature.

From the above submissions, it is clear that the school is aided. When there was gap in the management, an order was passed entrusting the management of the school to a Special Officer appointed by the Government. But, however, so far as the proposal for entrustment of management to the 3rd respondent-municipality from the second respondent is concerned, merely because, the 3rd respondent passed an order accepting the proposal for taking over the management, it cannot be said a decision has been taken. Clearly in the counter-affidavit it is stated that no decision was taken for taking over the management as per the provision under Section 60 of the Act. Since there were rival claims, a Special Officer is appointed, who is continuing the administration. It is only the apprehension of the petitioner that the management will be taken over by the Government. As and when if any order under Section 60 of the Act taking over the management is passed, it is always open to the petitioner to question the same. Inasmuch as there is a rival claim from two different societies for entrustment of the management, unless their rights are established in a competent Civil Court, the respondent-authority cannot decide the same and entrust the management to the petitioner's society. When such a dispute exists, the petitioner cannot seek a direction from this Court to entrust the management of the school to the petitioner- society.

In that view of the matter, I do not find any merit in this writ petition having regard to the fact that no final orders are passed under Section 60 of the Act and also in view of the rival claims with regard to claiming of management of the school so as to consider the request for handing over the management to the petitioner-society.

Writ petition is devoid of merit and it is accordingly dismissed. No costs.

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JUSTICE R.SUBHASH REDDY

DATED:28-09-2005.

Lrkm.